

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ANGELO LUIS CALZADA,

Plaintiff,

-v-

MICHAEL J. ASTURE, Commissioner of Social Security,

Defendant.

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No. 09 Civ. 3926 (RJS) (MHD)

ORDER ADOPTING REPORT AND  
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

On April 20, 2009, Plaintiff Angelo Luis Calzada, who is proceeding *pro se*, filed a complaint appealing Defendant Commissioner of Social Security Administration's denial of his application for Supplemental Security Income benefits. The Court referred this matter to the Honorable Michael H. Dolinger, Magistrate Judge, on April 29, 2009. On August 13, 2009, Defendant moved pursuant to Rule 12(c) of the Federal Rules of Civil Procedure for judgment on the pleadings. Plaintiff never filed opposition papers.

On October 21, 2010, Magistrate Judge Dolinger issued a Report and Recommendation (the "Report"), recommending that (1) Defendant's motion be denied, (2) the Commissioner's decision denying Supplemental Security Income be vacated, and (3) the case be remanded for further administrative proceedings. In the Report, Magistrate Judge Dolinger advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections. See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do so has expired. Cf. *Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). Having reviewed Magistrate Judge Dolinger's seventy-eight page Report, the Court finds that the reasoning and conclusions set forth therein are not facially erroneous. Accordingly, the Court adopts the Report in its entirety. For the foregoing reasons, IT IS HEREBY ORDERED that Defendant's motion for judgment on the pleadings is DENIED, the Commissioner's decision denying Supplemental Security Income is vacated, and that the case is remanded for further administrative proceedings.

The clerk of the court is directed to terminate the motion located at Doc. No. 9 and to close this case.

SO ORDERED.

Dated: November 17, 2010  
New York, New York

  
RICKARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE